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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

24 CR 00367 (LJL)

5 HECTOR COLON,

6 Trial

7 Defendant.

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8 New York, N.Y.
9 November 22, 2024
10 9:00 a.m.

11 Before:

12 HON. LEWIS J. LIMAN,

13 District Judge
14 -And A Jury-

15 APPEARANCES

16 DAMIAN WILLIAMS

17 United States Attorney for the
Southern District of New York

18 JACOB FIDDELMAN

JANE KIM

19 CATHERINE E. GHOSH

Assistant United States Attorneys

20 THOMAS AMBROSIO, ESQ.

Attorney for Defendant

21 BY: THOMAS AMBROSIO

22 Also Present:

23 Jayda Foote, USAO Paralegal

Shirel Garzon, USAO Paralegal

24 Preston Gover, Defense Paralegal

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1 (Trial resumed; in open court; jury not present)

2 THE COURT: Mr. Ambrosio, are you still reading the
3 proposed supplemental charge?

4 MR. AMBROSIO: I just finished it, Judge.

5 THE COURT: All right.

6 I want to thank the parties for their letters of last
7 night. I've distributed a proposed supplemental charge. Let
8 me tell you what I've done and then what my thoughts are, and
9 then I'll invite views.

10 I adopted points 1 and 2 of the government's
11 supplemental charge as Mr. Ambrosio described them in his
12 letter to me, with one exception, which is that, as
13 Mr. Ambrosio suggested, I substituted the word "admitted" for
14 the word "advanced" with respect to what it is that the jury
15 should consider in terms of evidence in the case.

16 What Mr. Ambrosio characterized as point 3 was the
17 language that the government had proposed which would invite
18 the jury to send me a note if there was a juror who was failing
19 to follow my instructions. For reasons that I will explain, I
20 generally agreed with Mr. Ambrosio's views that it was
21 premature, at this point, to extend such an introduction.

22 I added to my proposed charge some language that
23 softly is intended to suggest that if the jury had a question
24 about whether a juror was not following my instructions, they
25 could send me a note. It's a very, very, very soft suggestion.

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1 The language is: "If these instructions should fail to address
2 your concerns." That doesn't purport to characterize their
3 concerns as to whether they pertain to a juror who's not
4 following my instructions or pertain to something different.

5 I should give you the reason why I am not adopting the
6 government's proposal, at least at this stage.

7 I've reviewed the *Avenatti* case, from which the
8 Government drew its proposed language. In that case, the note
9 from the jury went much further, in suggesting that there was a
10 juror who was not following the evidence. In this case, the
11 note, as I read it, is ambiguous, and I think it's too early to
12 extend an invitation to the jury that is any more explicit than
13 what I've drafted.

14 There are all kinds of ways in which one can read the
15 note that we got from the jury. One way one could read it is
16 that there is one or more jurors who are motivated by bias and
17 not following my instructions. It's conceivable that that's
18 what's happening.

19 It is also conceivable that what's happening is that
20 there is a juror who, in the view of the majority of the
21 jurors, is not convinced by the evidence, and that the majority
22 of the jurors believe that that juror is motivated by some form
23 of bias, but that's the view of the majority of the jurors; it
24 doesn't yet suggest that the one or more than one juror who
25 doesn't believe the evidence has that belief because of

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1 impermissible bias or simply a view that the evidence doesn't
2 establish the proposition that the majority of the jurors
3 believes that it supports.

4 With that extended explanation, does the government
5 have any views with respect to my supplemental instruction?

6 MR. FIDDELMAN: We're fine with it. We understand the
7 Court's reasoning, and we defer to the Court's discretion here.

8 We provided some case law at the front of our letter,
9 not because we think we're there yet, but just to get everyone,
10 I guess, on the same page.

11 We agree that the note is ambiguous. And we should
12 put on the record that the parties were discussing last night,
13 and again this morning, that the note doesn't tell us really
14 anything about which way any biases might be pointing, what
15 type of bias they might be referring to. There are all sorts
16 of types of biases that could be impermissible, but they aren't
17 necessarily of any one type, and they also aren't necessarily,
18 as the Court said, in fact biases. And particularly because,
19 at this stage, not enough has been identified, we tried to just
20 propose instructions rather than inquiries.

21 So we're fine with the Court's proposal.

22 THE COURT: And, Mr. Fiddelman, I should say that
23 identifying those cases for me was extremely helpful, and I
24 spent some time last night reviewing the cases – including
25 *Thomas*, including *Baker*, including the progeny of those two

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1 cases — alerted to the sensitivity of the issue.

2 Anything from the defense on the proposed supplemental
3 charge?

4 MR. AMBROSIO: Your Honor, I think your supplemental
5 charge is appropriate, and I take no exceptions to it.

6 THE COURT: So, when we've got a full jury, we'll
7 bring them in, and I will deliver to them the supplemental
8 charge.

9 We've got copies of the supplemental charge for them
10 to follow along with, so we'll distribute those, and then they
11 will have those to bring back into the jury room. And we'll
12 see what the day brings.

13 We'll see you all back here around 9:30.

14 (Recess)

15 THE COURT: I should mention that when my deputy went
16 into the jury room just to make sure that all of the jurors
17 were there, one of the jurors asked him, "Can we ask the judge
18 questions?" And his response to them was, "Through sending a
19 note out to the judge."

20 So, when I get to the point of the supplemental
21 charge, where I say, "If you have any additional questions or
22 concerns, you can always send me another note," I think I will
23 add language that's not in this script but that will say, you
24 know, "through your foreperson in the manner that I've
25 previously described."

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1 Let's bring the jury in.

2 (Jury present)

3 THE COURT: Be seated.

4 Good morning, members of the jury. I hope you all had
5 a pleasant evening.

6 My law clerk will now distribute to you a supplemental
7 charge that we've prepared.

8 (Pause)

9 THE COURT: I have received your note, which reads as
10 follows: "Can we have a moment to discuss more about what
11 reasonable doubt should be from the judge? We are having a lot
12 of discord. Some are more driven by bias and don't believe
13 some items."

14 At the beginning of this case, you each took an oath
15 to well and truly try this issue and give a true verdict
16 according to the law and the evidence.

17 Pursuant to that oath, each of you has a duty to
18 deliberate. That entails a duty to consult with one another,
19 to consider each other's views with an open mind, and to
20 discuss the evidence with the objective of reaching a just
21 verdict, if you can do so.

22 Under your oath as jurors, you are not to be swayed by
23 sympathy or emotion. You should be guided solely by the
24 evidence presented during the trial and the law as I gave it to
25 you, without regard to the consequences of your decision.

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1 You have been chosen to try the issues of fact and
2 reach a verdict on the basis of the evidence or lack of
3 evidence. Your verdict must be based solely upon the evidence
4 admitted at trial, or the lack of evidence, but I remind you
5 that the defendant has no burden to present any evidence. As
6 I've told you many times, the burden of proof lies solely with
7 the government.

8 It would be improper for you to consider, in reaching
9 your decision as to whether the government has sustained its
10 burden of proof, any personal feelings you may have about the
11 defendant's race, religion, national origin, sex, age, or
12 political views. Similarly, it would be improper for you to
13 consider any personal feelings you may have about the race,
14 religion, national origin, sex, age, or political views of any
15 witness, or anyone else involved in the case.

16 Do not allow yourself to be influenced by personal
17 likes or dislikes, sympathy, prejudice, fear, stereotypes,
18 public opinion, or biases, including unconscious biases.
19 Unconscious biases are stereotypes, attitudes, or preferences
20 that people may consciously reject but may be expressed without
21 conscious awareness, control, or intention. Like conscious
22 bias, unconscious bias can affect how we evaluate information
23 and make decisions.

24 Both the defendant and the government are entitled to
25 a trial free from prejudice, and our judicial system cannot

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1 work unless you reach your verdict through a fair and impartial
2 consideration of the evidence. To repeat, your verdict must be
3 based exclusively upon the evidence or lack of evidence in this
4 case.

5 You've asked me about reasonable doubt. A reasonable
6 doubt is a doubt based in reason and arising out of the
7 evidence in the case or the lack of evidence. It is a doubt
8 that a reasonable person has after carefully weighing all of
9 the evidence in the case. Reasonable doubt is a doubt that
10 appeals to your reason, your judgment, your experience, and
11 your common sense. Reasonable doubt is not whim or
12 speculation. It is not an excuse to avoid an unpleasant duty.
13 Nor is it sympathy for the defendant or any party. A doubt
14 based on any of the impermissible considerations I've just
15 outlined for you is not a reasonable doubt.

16 Similarly, a guilty verdict cannot be based on any of
17 these impermissible considerations.

18 "Beyond a reasonable doubt" does not mean mathematical
19 certainty or proof beyond all possible doubt. Proof beyond a
20 reasonable doubt does not mean proof beyond all possible doubt.
21 It is practically impossible for a person to be absolutely and
22 completely convinced of any disputed fact that by its very
23 nature cannot be proven with mathematical certainty.

24 The government's burden is to establish guilt beyond a
25 reasonable doubt, not all possible doubt. The law in a

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1 criminal case is that it is sufficient if the guilt of the
2 defendant is established beyond a reasonable doubt, not beyond
3 all possible doubt. Therefore, if after a fair and impartial
4 consideration of all the evidence, you can candidly and
5 honestly say that you do have an abiding belief of the
6 defendant's guilt, such a belief as a prudent person would be
7 willing to act upon in important matters in the personal
8 affairs of his or her own life, then you have no reasonable
9 doubt, and, under such circumstances, it is your duty to
10 convict the defendant of the particular crime in question.

11 On the other hand, if, after a fair and impartial
12 consideration of all of the evidence, you can candidly and
13 honestly say that you are not satisfied with the defendant's
14 guilt as to any charge, that you do not have an abiding belief
15 of his guilt as to that charge – in other words, if you have
16 such a doubt as would reasonably cause a prudent person to
17 hesitate in acting in matters of importance in his or her own
18 affairs – then you have a reasonable doubt, and, in that
19 circumstance, it is your duty to acquit the defendant of that
20 charge.

21 Now, I say this not because I think it is necessary,
22 but I remind you to be polite and respectful to each other, as
23 I'm sure you will be in the course of your deliberations, so
24 that each juror may have his or her position made clear to all
25 the others. I remind you once again that your oath is to

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1 decide without fear or favor and to decide the issues based
2 solely on the evidence and on my instructions on the law.

3 I remind you that your verdict must be unanimous.

4 Further, you are reminded that if at any time you are
5 not in agreement, you are not to reveal the positions of the
6 jurors, including a split of the vote, to anyone, including to
7 me, at any time during your deliberations.

8 With that, I will ask you to return to the jury room
9 to continue your deliberations.

10 I'm going to give you copies of the instructions I've
11 just read to you and of the instructions I gave to you
12 yesterday. If these instructions fail to address your
13 concerns, or if at any point in your deliberations you have any
14 additional questions or concerns, you can always send me
15 another note through your foreperson, in the manner that I have
16 previously described to you.

17 So, you're now to return to the jury room to continue
18 your deliberations. Thank you.

19 (Jury not present)

20 THE COURT: Okay. Everybody, stay nearby. We'll see
21 what the day brings.

22 (Recess pending verdict)

23 THE COURT: All right. We've got another note from
24 the jury. My deputy has marked it as Court Exhibit No. 7.
25 It's timestamped 12:05 p.m. It was received by us at 12:12.

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1 It reads as follows: "One of the jurors has researched the
2 lawyers online, and it has been brought to our attention. What
3 do we do next?"

4 If you all want to inspect the note, you're welcome
5 to. I will tell you my initial views are that I should send a
6 note back to the jury indicating that I would like to speak to
7 that juror, and that I need to do an interview of the juror, I
8 presume with counsel present, to understand what it is that the
9 juror researched. At a minimum, I think I would need to do
10 that, and then perhaps get some sense as to what's been shared
11 with the remainder of the jury.

12 But does the government have a view right now, or does
13 the government want to spend some time thinking about it?
14 What's your preference, Mr. Fiddelman?

15 MR. FIDDELMAN: We'd ask for perhaps a five- or
16 ten-minute recess just to think and consult, but sort of our
17 initial reaction is that what your Honor described sounds right
18 but we would appreciate a little bit of time.

19 THE COURT: That's fine with me.

20 Mr. Ambrosio?

21 MR. AMBROSIO: I agree with what Mr. Fiddelman just
22 said. I agree that your Honor's suggestion might be the
23 appropriate way to go, at a minimum. I would like a little
24 time, too, to see if I could do some research on that, as well.

25 THE COURT: Do either of you have a view as to the

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1 form in which I would request the interview?

2 One thing that I could do is prepare a note to send
3 back, saying, in essence, I would like to speak to the juror in
4 question, and ask that juror to come into the courtroom. That
5 way, it's all in writing.

6 MR. FIDDELMAN: I think that makes sense, your Honor.
7 To bring the entire jury into the courtroom to say that, and
8 send them all back, and then one come back out, seems an
9 unnecessary step.

10 THE COURT: Mr. Ambrosio?

11 MR. AMBROSIO: I agree with that, your Honor.

12 THE COURT: So, we'll prepare that note. I'm not
13 going to do anything, obviously, until you all have time to
14 think about next steps.

15 Let's try to be back here at 12:40, which is the ten
16 minutes. If it turns out you need a couple of extra minutes,
17 then that's also fine with me.

18 MR. FIDDELMAN: Thank you.

19 (Recess)

20 THE COURT: Mr. Fiddelman?

21 MR. FIDDELMAN: Thank you for those few minutes, your
22 Honor.

23 In short, I think the parties are in agreement that
24 your Honor's proposal is the way to go.

25 As an initial step, I think everyone needs to know a

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1 little bit more because it could be something innocuous, where
2 the juror might confirm, "I did that, I'm sorry, I shouldn't
3 have done it but I'm going to put it out of my mind and it will
4 not affect anything," in which case it's possible all parties
5 would be prepared for the jury to continue; it could be
6 something more problematic. And, in all events, we need to
7 know not just what the juror researched but what subset of that
8 information was shared with the rest of the jury. And you
9 could see certain highly problematic results here, and I don't
10 mean to hypothesize, but, for example, if one of the jurors
11 researched me or Ms. Ghosh, they could have found press
12 releases about the 70-defendant takedown in this case, which
13 could have mentioned the number of defendants who have pleaded
14 guilty, and then if any of that information has been learned by
15 a juror, we have a more serious problem.

16 So, we just need to know more. And, obviously, I'm
17 sure the Court is quite attuned to this, but we think that sort
18 of as a first step, it should just be information-gathering and
19 not any necessarily follow-up questions about whether it has
20 affected the jurors' deliberations or how, and we'd ask for an
21 opportunity to chat with your Honor once we learn more facts,
22 before next steps are formulated.

23 THE COURT: I agree with all of that.

24 Mr. Ambrosio, I'm going to turn to you in just a
25 moment -- well, let me ask you right now, Mr. Ambrosio: I take

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1 it you agree that I should interview the juror in question?

2 MR. AMBROSIO: Yes, I do, your Honor.

3 THE COURT: Okay.

4 I would do that in the robing room – I think it's more
5 informal – unless the parties wanted me to do it elsewhere.

6 Counsel will be present, so I think it would be
7 probably less imposing on the juror if it's only one lawyer for
8 the government, but if the government feels it necessary for
9 all four people at counsel table to be there, I'm not going to
10 impose limits.

11 Mr. Ambrosio, you'll be there. I don't know whether
12 you want your client to be there?

13 MR. AMBROSIO: No, Judge. I'd prefer to be alone.

14 THE COURT: Okay.

15 And, Mr. Fiddelman, do you need everybody at counsel
16 table?

17 MR. FIDDELMAN: Just a moment, your Honor.

18 (Pause)

19 MR. FIDDELMAN: I think we'd ask that the three AUSAs,
20 the three counsel, attend. With due respect to Ms. Garzon, I
21 think she can skip that part.

22 THE COURT: I did say that while I prefer one, I would
23 not limit the government, so that will be fine.

24 On the note that I send, because I do think I should
25 send a note back there, which my deputy will essentially read

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1 from when he goes out and pulls the juror, we haven't typed it
2 up yet, we didn't really have time, and I don't think I need to
3 spend the time typing it up unless somebody wants me to -- we
4 may have another note. It looks like the court security
5 officer has an envelope.

6 Let's see what that is before I speak more.

7 (Pause)

8 THE COURT: It's marked as Court Exhibit No. 8,
9 timestamped 12:41, received at 12:42.

10 It reads: "Can we get the transcript from Hector's
11 testimony when he was questioned about Harry providing bribes?
12 Can we get the transcript from Harry's testimony about Hector's
13 demands?"

14 That may be a little bit more straightforward. The
15 parties will confer about the relevant portions of the
16 transcript.

17 With respect to Note No. 7, what I propose to write to
18 the jury is along the lines of: "The Court has been informed
19 that one of the jurors may have researched the lawyers in the
20 case. The Court would like to speak to that juror. The jurors
21 should stop the deliberations until the juror returns and all
22 jurors are present."

23 Any objection to that, Mr. Fiddelman?

24 MR. FIDDELMAN: No, your Honor.

25 THE COURT: Mr. Ambrosio?

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1 MR. AMBROSIO: No, your Honor.

2 THE COURT: Let me write it out.

3 (Pause)

4 THE COURT: My deputy actually is going to try to type
5 it up.

6 While he's doing that, I would appreciate thoughts
7 that, first, the government has and then Mr. Ambrosio has about
8 the questioning. I would think it's going to be pretty
9 straightforward to just ask the juror and question what it is
10 that the juror looked at, when the juror looked at it, what the
11 juror remembers seeing, and then what the juror has mentioned
12 to the other jurors about what the juror researched.

13 Anything more, Mr. Fiddelman?

14 MR. FIDDELMAN: No. That sounds right to us, your
15 Honor. And there may be more follow-up questions about whether
16 the juror can put things out of his or her mind. And before we
17 get there, we can all reconvene.

18 THE COURT: What I would do is, after I'm done with
19 the questions, I would then ask the juror to step outside of
20 the robing room, and I'll talk to the parties about follow-up
21 questions.

22 Mr. Ambrosio?

23 MR. AMBROSIO: Yes, Judge, I agree. I think your
24 approach is the proper approach for this juror questioning.

25 THE COURT: Okay.

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1 I don't think I need to stay on the bench while my
2 deputy is typing up my note.

3 You all should stay here and look at the note that he
4 is going to be reading from, which he'll mark as Court Exhibit
5 No. 9. And then when the juror is ready, my deputy will tell
6 all of you to come into the robing room. Once you're in the
7 robing room, we'll bring the juror in.

8 (Pause)

9 (In the robing room; juror present)

10 THE LAW CLERK: Mr. Morris.

11 THE COURT: Come in, come in.

12 JUROR: First of all, I want to severely apologize. I
13 feel horrible about this.

14 THE COURT: No, no, have a seat.

15 So, tell me what you researched.

16 JUROR: I wouldn't call it research. You know, I am
17 in sales. I spend my life on LinkedIn. That's what I do when
18 I encounter people in a professional manner, I tend to look at
19 them on LinkedIn. And I have to admit I did.

20 THE COURT: So, who did you look up?

21 JUROR: I think -- I know I looked up you.

22 And I think you didn't have one.

23 THE COURT: So, Mr. Fiddelman?

24 JUROR: And I think Mr. Ambrosio. And I -- that might
25 have been it. It was the first day. I don't honestly

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1 remember.

2 THE COURT: And what did you see about Mr. Fiddelman
3 on LinkedIn?

4 JUROR: University of Pennsylvania -- I think?

5 THE COURT: I'm not going to let him respond.

6 JUROR: Okay. That's what I remember.

7 THE COURT: Where he went to school?

8 JUROR: Yeah.

9 THE COURT: Did you see anything about his cases that
10 he did?

11 JUROR: No, no. I looked up nothing about the case,
12 nothing about any cases, nothing about other cases.

13 THE COURT: Okay.

14 Do you remember seeing anything about Mr. Ambrosio?

15 JUROR: I don't believe he even had an account, if I
16 recall correctly.

17 THE COURT: And Ms. Kim, did you look up anything
18 about her?

19 JUROR: I don't remember. I don't remember doing it,
20 and I think I probably would remember, but I can't guarantee
21 that I didn't.

22 THE COURT: And Ms. Ghosh, do you remember?

23 JUROR: I don't think I did. I just looked up the
24 names -- I didn't have the paper, so I only remembered -- I
25 think I remembered your name, and your name, and that was it.

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1 THE COURT: Okay.

2 What, if anything, did you share with the other jurors
3 about what you had seen?

4 JUROR: Nothing, absolutely nothing.

5 THE COURT: Okay. Let me ask you to step outside just
6 for one moment. Thank you for sharing that.

7 JUROR: Yeah.

8 (Juror not present)

9 THE COURT: Let me turn to you first, Mr. Ambrosio.
10 Any follow-up questions you want me to ask?

11 MR. AMBROSIO: I don't think so, your Honor. For the
12 record, I don't have -- if I have a LinkedIn account, I don't
13 even know how to get on it. I have not used it -- I may have
14 had one 20 years ago. I do not use that platform, and if
15 there's anything on there, I don't know what there would be. I
16 don't think my photo is on it.

17 So, for me, there's nothing that he could have
18 obtained.

19 THE COURT: And I take it no follow-up questions to
20 ask?

21 MR. AMBROSIO: No.

22 THE COURT: Mr. Fiddelman, do you have a LinkedIn
23 account?

24 MR. FIDDELMAN: I do, your Honor, although the photo
25 is probably from 15 years ago.

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1 THE COURT: And do you have a connection with the
2 University of Pennsylvania?

3 MR. FIDDELMAN: That's my undergrad institution. We
4 don't have any follow-up questions.

5 THE COURT: Okay.

6 MR. AMBROSIO: Oh, Judge, I do have a follow-up,
7 potential follow-up, question.

8 THE COURT: For the juror?

9 MR. AMBROSIO: I'm curious, like, was it just the
10 other jurors felt an obligation to report this?

11 MR. FIDDELMAN: We would object.

12 THE COURT: I'm not inclined to ask -- well, let me
13 ask Mr. Fiddelman first what his position is.

14 MR. FIDDELMAN: We would object to any further
15 questioning about why things were brought to your Honor's
16 attention, because that starts to intrude upon the
17 deliberations.

18 MR. AMBROSIO: Okay.

19 THE COURT: Are you okay with that?

20 MR. AMBROSIO: I'm okay with that, Judge, yes.

21 MR. FIDDELMAN: I guess in terms of follow-up
22 questions, it's not factual follow-up questions, but we do have
23 a suggestion for how to move forward.

24 THE COURT: Why don't you make that.

25 MR. FIDDELMAN: We think that this does fall into the

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1 category of potentially minor enough that you can instruct the
2 juror to set anything that he learned aside, and you can ask
3 the juror whether he can fairly and impartially decide the case
4 based solely on the evidence and the law without consideration
5 of anything he saw on LinkedIn. We think if he answers
6 unequivocally yes, there is no issue, and he can return to the
7 jury and continue deliberating.

8 MR. AMBROSIO: I don't object to that being a
9 follow-up question, Judge. And I would agree that if he
10 answers that it wouldn't affect his ability to continue
11 deliberating fairly and impartially, then he could be excused
12 and they resume their deliberations.

13 THE COURT: Okay. So what I'm going to do is go
14 through that colloquy with him. You'll all hear his answers,
15 he'll step out again. If the answers are as Mr. Fiddelman has
16 said they might be, then -- either way, we'll have him come
17 back in, and one possible resolution is that I will thank him
18 for bringing the information to my attention, and instruct him
19 to return to the jury room, and the jury, once he returns, can
20 continue deliberating.

21 Let's bring him back in.

22 (Juror present)

23 THE COURT: Let me just ask you a few questions,
24 Mr. Morris.

25 JUROR: Sure.

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1 THE COURT: Do you believe that you would be able to,
2 if you went back into the jury room, set aside, during the
3 deliberations, anything that you saw about the lawyers?

4 JUROR: I do.

5 THE COURT: And do you think that you could fairly and
6 impartially try, decide, this case --

7 JUROR: I do.

8 THE COURT: -- render a verdict based solely on the
9 evidence and my instructions on the law?

10 JUROR: I'm very confident in that. There was nothing
11 I saw that would have affected it in any way, and I looked up
12 nothing about the case or anything like that. So I'm very
13 confident --

14 THE COURT: So no doubt that I could decide this case
15 solely on the evidence and my instructions on the law?

16 JUROR: Not in the least.

17 THE COURT: Okay. Let me just ask you to step out for
18 one more moment.

19 (Jury not present)

20 THE COURT: Mr. Ambrosio, any objection to me thanking
21 him, and then instructing him to return to the jury room, and
22 that the jury can continue deliberating?

23 MR. AMBROSIO: No.

24 THE COURT: From the government?

25 MR. FIDDELMAN: No objection, your Honor.

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1 THE COURT: Okay. Let's have him back in.

2 (Juror present)

3 THE COURT: Mr. Morris, I apologize for making you
4 come back in and leave.

5 JUROR: No, this is completely my fault, so I don't
6 mind.

7 THE COURT: I want to thank you for bringing this to
8 my attention.

9 What I'm going to ask you to do is to return to the
10 jury room and continue your deliberations. Once all of you are
11 back in the jury room, you can continue your deliberations.

12 JUROR: Okay, okay. Thank you. And, again, I
13 apologize, and --

14 THE COURT: Thank you for bringing it to our
15 attention.

16 JUROR: I'm sorry. Thank you. I apologize to
17 everybody.

18 (Juror not present)

19 THE COURT: While we are still here, do you want some
20 time to go through the transcript and figure out what we're
21 going to read back to the jury?

22 MR. FIDDELMAN: Yes, your Honor. And we defer to the
23 Court's preference on whether to do readback or just send a
24 written copy of the relevant section back into the jury room.
25 I've had experiences both ways, and I don't think we have a

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1 preference.

2 THE COURT: Do you have a preference, Mr. Ambrosio?

3 MR. AMBROSIO: I don't, Judge. I usually defer to the
4 Court if you have -- I don't know what your current practice
5 is.

6 MR. FIDDELMAN: The testimony could be long because
7 they asked for Harjeet Singh's testimony about the defendant,
8 which is going to go on for quite a while.

9 THE COURT: Yes. So, I think if it is long, my
10 inclination would be just to send it back to the jury so that
11 we don't have to all sit through it.

12 If you are all in agreement as to that, and in
13 agreement as to what should go back to the jury, then you'll
14 let my deputy know what should go back to the jury, he'll mark
15 it as an exhibit, and I don't think I need to come back on the
16 bench, but I defer to all of you with respect to that. If
17 there are disagreements, then I'll resolve them.

18 Any problem with that, Mr. Fiddelman?

19 MR. FIDDELMAN: No, your Honor.

20 THE COURT: Mr. Ambrosio?

21 MR. AMBROSIO: No, your Honor.

22 THE COURT: Okay. All right. Thank you.

23 (Recess pending verdict)

24 THE COURT: Okay. We've got a note from the jury.
25 It's Court Exhibit No. 12. It's timestamped 2:32 p.m. It's

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1 received at 2:34 p.m. It reads: "We have reached a verdict."

2 Any reason I should not bring the jury in, from the
3 government's perspective?

4 MR. FIDDELMAN: No, your Honor.

5 And just for the record, were the transcripts that
6 were sent back Court Exhibits 10 and 11?

7 THE COURT: Yes, they were.

8 MR. FIDDELMAN: Thank you.

9 MR. AMBROSIO: No, no reason, Judge.

10 THE COURT: Okay. Let's bring in the jury.

11 (Jury present)

12 THE COURT: Juror No. 9, you're the foreperson?

13 THE FOREPERSON: Yes.

14 THE COURT: Have you reached a verdict?

15 THE FOREPERSON: We have.

16 THE COURT: Would you please hand your verdict
17 envelope to my courtroom deputy, Mr. Fishman, for me to
18 inspect.

19 Mr. Fishman, I'm going to hand you the verdict
20 envelope, and I will ask you to hand it to the foreperson, and
21 then to please take the verdict.

22 And let me ask the defendant to please rise and face
23 the jury.

24 Mr. Fishman, would you please now take the verdict.

25 THE DEPUTY CLERK: Count One, solicitation or

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1 acceptance of a bribe by an agent of an organization receiving
2 federal funds, how do you find the defendant, Hector Colon,
3 with respect to Count One, not guilty or guilty?

4 THE FOREPERSON: Guilty.

5 THE DEPUTY CLERK: Count Two, extortion under color of
6 official right, how do you find the defendant, Hector Colon,
7 with respect to Count Two, not guilty or guilty?

8 THE FOREPERSON: Guilty.

9 THE DEPUTY CLERK: Okay.

10 THE COURT: Mr. Fishman, you may now collect the
11 verdict form.

12 And, Mr. Colon, you may be seated.

13 Is there a request for a poll?

14 MR. AMBROSIO: Yes, your Honor.

15 THE COURT: Mr. Fishman, would you please poll the
16 jury.

17 THE DEPUTY CLERK: Juror No. 1, is this your verdict?

18 JUROR: Yes.

19 THE DEPUTY CLERK: Juror No. 2, is this your verdict?

20 JUROR: Yes.

21 THE DEPUTY CLERK: Juror No. 3, is this your verdict?

22 JUROR: Yes.

23 THE DEPUTY CLERK: Juror No. 4, is this your verdict?

24 JUROR: Yes.

25 THE DEPUTY CLERK: Juror No. 5, is this your verdict?

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1 JUROR: Yes.

2 THE DEPUTY CLERK: Juror No. 6, is this your verdict?

3 JUROR: Yes.

4 THE DEPUTY CLERK: Juror No. 7, is this your verdict?

5 JUROR: Yes.

6 THE DEPUTY CLERK: Juror No. 8, is this your verdict?

7 JUROR: Yes.

8 THE DEPUTY CLERK: Juror No. 9, is this your verdict?

9 JUROR: Yes.

10 THE DEPUTY CLERK: Juror No. 10, is this your verdict?

11 JUROR: Yes.

12 THE DEPUTY CLERK: Juror No. 11, is this your verdict?

13 JUROR: Yes.

14 THE DEPUTY CLERK: Juror No. 12, is this your verdict?

15 JUROR: Yes.

16 THE COURT: Okay.

17 Is there any reason, from the government's
18 perspective, that judgment should not be recorded and filed?

19 MR. FIDDELMAN: No, your Honor.

20 THE COURT: Any reason from the defense's perspective?

21 MR. AMBROSIO: No, your Honor.

22 THE COURT: Okay.

23 I direct the Clerk of Court to record and file the
24 verdict.

25 Is there any reason, from the government's

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1 perspective, why the jury should not now be dismissed?

2 MR. FIDDELMAN: No, your Honor.

3 THE COURT: From the defense's perspective?

4 MR. AMBROSIO: No.

5 THE COURT: Okay. The jury will be dismissed.

6 Members of the jury, this concludes your duty.

7 A much esteemed judge of this court would never
8 comment on a jury's verdict, nor would he thank the jurors for
9 their service. It was that judge's view – Judge Weinfeld, a
10 very esteemed member of this bench – not to thank the jury for
11 performing what is their civic duty, one of the highest and
12 most important duties of citizenship.

13 I'm going to follow that practice, in part. I will
14 not comment on your verdict. I will note, however, the
15 attention that you each paid to this case, the diligence and
16 care that you exercised, and the sacrifice that many, if not
17 all, of you made in performing your jury duty in this case.
18 For that, I thank you, on the part of our nation.

19 You are now dismissed. You should leave your notes in
20 the jury room. My courtroom deputy will ensure that they are
21 destroyed.

22 You're no longer under my injunction not to speak
23 about the case. You're free to talk about the case or not talk
24 about the case, as you see fit.

25 I would, however, note one thing for you to think

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1 about: You might want to think about whether, if you do talk
2 about the case, you should just talk about your own views. No
3 one signs up for jury duty with the expectation that other
4 jurors will comment upon what he or she said in the jury room.
5 That's not an instruction to you - I'm done giving instructions
6 to you - that's just one thing you should keep in mind.
7 Another way of putting it is the Golden Rule - that you might
8 think about not saying about others what you wouldn't want them
9 to say about you.

10 It may be that people approach you to talk about the
11 case. Again, you're free to talk about it, or not talk about
12 it, as you see fit. If any of the parties in this case try to
13 talk to you about the case, you also are free to talk to them
14 or not talk to them, as you see fit. However, if you do not
15 wish to speak to any of the parties in this case, and that
16 party persists in trying to talk to you, I would tell you to
17 bring it to my courtroom deputy's attention, and we will take
18 care of that.

19 So, with that, and expressing to you again the thanks
20 of our nation, you're now dismissed.

21 We'll all stand for you one last time. Take your
22 belongings. Leave your notes in the jury room.

23 All rise.

24 (Jury excused)

25 THE COURT: Be seated.

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1 All right. Any posttrial motions will be due on the
2 date set by the Federal Rules following the date of the
3 verdict.

4 Is there anything else from the government that we
5 should address today?

6 MR. FIDDELMAN: Does the Court prefer to set a
7 sentencing date at this time?

8 THE COURT: I do.

9 So, what I have in mind is March 6, 2025, at
10 11:00 a.m.

11 Does that work for the defense?

12 MR. AMBROSIO: Give me one second, your Honor.

13 (Pause)

14 MR. AMBROSIO: March 6th, your Honor?

15 THE COURT: Yes.

16 MR. AMBROSIO: Yes, I'm available.

17 THE COURT: Okay.

18 So, sentencing will be March 6, 2025, at 11:00 a.m.

19 I'm going to direct the government to provide its
20 statement of facts to probation by -- can you do it by
21 December 2nd of 2024?

22 MR. FIDDELMAN: Yes, your Honor.

23 THE COURT: Mr. Ambrosio, can you arrange by
24 December 9th to make your client available for an interview by
25 probation?

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1 MR. AMBROSIO: Yes, Judge. And, for the record, I
2 want to be present.

3 THE COURT: Okay. So, I will order, first, that by
4 December 9th you make arrangements to have your client
5 interviewed by probation.

6 I am also going to order that there be no interview of
7 Mr. Colon without counsel being present.

8 Let me advise you, Mr. Colon, that the probation
9 department will want to interview you in connection with the
10 presentence report that it will prepare. It's very important
11 that you be accurate with them if you decide to speak with
12 them. The presentence report is something that I will read and
13 pay close attention to at the time of sentencing.

14 I will also advise you that you are going to have the
15 right to review and to comment on the presentence report, and
16 so it's very important that when you get a copy of the
17 presentence report, you review it carefully, and that you go
18 over with counsel any errors in the presentence report or
19 anything else that you believe should be brought to my
20 attention.

21 The parties should consult my individual practices
22 with respect to sentencing submissions. Those practices
23 provide that defense submissions are due two weeks before
24 sentencing, and the government's submissions are due one week
25 in advance of sentencing.

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1 I don't have any page limits in connection with
2 sentencing, so feel free to bring anything to my attention that
3 you believe deserves attention.

4 Is there anything else, from the government's
5 perspective? What's the defendant's situation on bail?

6 MR. FIDDELMAN: The defendant is currently out on a
7 personal recognizance bond, with conditions of supervision.
8 And the government has no objection to continuing those same
9 conditions pending sentencing.

10 THE COURT: Okay. The conditions as set will be
11 maintained.

12 Mr. Colon, let me advise you that the prior conditions
13 of bail that have been set for you continue.

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And, sir, you must be in this courtroom on
17 the date and at the time set for sentencing. If you are not
18 here on that date and at that time, you will be guilty of a
19 separate crime, that of bail-jumping.

20 Do you understand that?

21 THE DEFENDANT: Yes, I do, your Honor.

22 THE COURT: Is there anything else from the
23 government's perspective?

24 MR. FIDDELMAN: No, your Honor.

25 THE COURT: Mr. Colon, you may be seated.

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1 Mr. Ambrosio, anything else from your perspective?

2 MR. AMBROSIO: No.

3 THE COURT: It was very well tried case. I think
4 that's it for the day.

5 Have a good afternoon, everybody. Thank you.

6 (Adjourned)

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